



Virginia  
Regulatory  
Town Hall

## Notice of Intended Regulatory Action Agency Background Document

<b>Agency Name:</b>	Virginia Department of Health
<b>VAC Chapter Number:</b>	12 VAC 5-586
<b>Regulation Title:</b>	Biosolids Use Fees
<b>Action Title:</b>	Adopt biosolids use fees regulation in accordance with 2001 law
<b>Date:</b>	July 25, 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

### Purpose

*Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.*

The Biosolids Use Fees Regulation will require the payment of a fee for land application of sewage sludge (biosolids) as permitted either through a Virginia Pollution Abatement Permit (VPA) issued by the Department of Environmental Quality (DEQ), or through an Operation Permit (VDHBUR) issued by the Virginia Department of Health (VDH). The fees will be collected from persons who are permitted to apply biosolids in local jurisdictions that have adopted an ordinance that provides for the testing and monitoring of the land application of biosolids in order to ensure compliance with governing laws and regulations. The fee shall not exceed the amount necessary to reimburse the local jurisdictions for the direct costs of a reasonable amount of testing and monitoring. The fee shall be imposed on each dry ton of biosolids applied to land in local jurisdictions that have adopted an ordinance.

**Basis**

*Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.*

---

Legislation passed by the General Assembly (HB 2827, Acts of Assembly c. 831, 2001) and signed into law by the Governor, amended Section 62.1-44.19:3 of the *Code of Virginia* (available electronically at <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+62.1-44.19C3>), requiring that by January 1, 2003, the State Board of Health adopt regulations requiring the payment of fees for the land application of biosolids, within local jurisdictions with adopted ordinances providing for the testing and monitoring of such operations, to ensure compliance with applicable laws and regulations.

**Substance**

*Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.*

---

An Ad Hoc Advisory Committee will assist the VDH in developing a Draft Regulation to be presented to the Board of Health for approval as a Proposed Regulation in accordance with the Administrative Process Act (APA). Final Regulations will have to be adopted by the Board of Health by December 2002 in accordance with the APA, in order to meet the deadline mandated in Section 62.1-44.19:3 of the *Code of Virginia*. The regulations shall include requirements and procedures for:

1. Collection of fees from land appliers by the VDH;
2. Retention of proceeds in a special nonreverting fund to be administered by the VDH; and
3. Disbursement of proceeds by VDH to reimburse counties, cities and towns with duly adopted ordinances providing for the testing and monitoring of the land application of sewage sludge, as provided for in Section 62.1-44.19:3 of the *Code of Virginia*.

The persons land applying sewage sludge shall (i) provide advance notice of the estimated fee to the generator of the sewage sludge unless notification is waived, (ii) collect the fee from the generator, and (iii) remit the fee to the Department of Health as provided for by the Final Regulation.

### Alternatives

*Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.*

---

No Alternatives have been considered as the development of this regulation has been clearly authorized and mandated in Section 62.1-44.19:3 of the *Code of Virginia*.

### Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

---

The proposed regulatory action will have no anticipated or associated impacts on family rights to educate and supervise children. It will not discourage economic self-sufficiency and family responsibilities and commitments or decrease disposable family income.